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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

ADRIAN SPENCER WOODS,

Defendant and Appellant.

C059507

(Super. Ct. No. 07F11737)

Defendant Adrian Spencer Woods entered a negotiated plea of no contest to corporal injury on a spouse (Pen. Code,<sup>1</sup> § 273.5, subd. (a); count one) and, an added count, failure to register (§ 290; count three) and admitted a strike prior (§ 667, subds. (b)-(i)). Defendant entered his plea and admission in exchange for dismissal of the remaining count (battery resulting in serious bodily injury) and allegation (another strike prior) and a stipulated state prison sentence of four years; that is, the

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<sup>1</sup> Hereafter, undesignated statutory references are to the Penal Code.

low term of two years, doubled for the strike prior, on count one, and a concurrent four-year sentence on count three. The court sentenced defendant to state prison accordingly.

Defendant appeals. His request for a certificate of probable cause (\$ 1237.5) was denied. He contends that the trial court erred in imposing a \$400 restitution fine and corresponding parole revocation restitution fine (parole fine).

At the entry of plea hearing, the trial court informed defendant of the consequences of his plea and stated it would impose the minimum fees and fines without specifying which fees and fines or the amount of the same. The court advised: "And there will be minimum fees and fines. This is not a fine type case, so at sentencing there are some very small amounts of money that I'm required to impose, but they will be the minimums, Mr. Van Etten [defense counsel]. [¶] Mr. Woods [defendant] . . . ." The probation officer recommended an \$800 restitution fine and parole fine. When the trial court sentenced defendant to prison and imposed the restitution and parole fines, the trial court stated it believed the minimum was \$400. The court stated: "The Court is going to impose the minimum California restitution fine, which I believe is \$400. [¶] Also, there is a second \$400 assessment, 1202.45 assessment, that is imposed but stayed pending his successful completion of parole." Defendant did not object.

Defendant argues that the trial court either "breach[ed] [] the plea agreement or . . . misapprehen[d] the law." In his reply brief, defendant adds that counsel rendered ineffective

assistance by failing to object. The People respond "the trial court did not breach the plea agreement . . . ; [defendant] waived his right to appeal by failing to object at sentencing; however, [the] minimum fines were not ordered." The People request that the judgment either be affirmed, the matter remanded, or the fine be reduced to \$200.

Because the record expressly reflects that the trial court intended to impose the minimum amount, but erroneously believed it to be \$400 when it is actually \$200 (§ 1202.4, subd. (b)(1)), we will accept the People's concession and order the restitution fine and parole fines reduced to the minimum amount of \$200. (§§ 1202.4, 1202.45.)

#### **DISPOSITION**

The judgment is modified, reducing the restitution and parole fines to \$200. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

CANTIL-SAKAUYE, J.

We concur:

SIMS, Acting P. J.

NICHOLSON, J.